



Peter A. Cooper

*Bill Analysis*  
Legislative Service Commission

## **H.B. 356**

125th General Assembly  
(As Introduced)

**Reps. Widowfield, Williams, Trakas, Callender, Grendell, Wagner, Peterson, Seitz, Wilson, Sferra**

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### **BILL SUMMARY**

- Authorizes a county-wide sales and use tax for school district purposes.
- Requires the tax to be proposed by a majority of school boards with territory in the county, and requires approval by voters throughout the county.
- Provides for revenue to be distributed among all school districts having any territory in the county, in proportion to the number of each district's students who reside in the county.
- Allows school boards to devote their share of the revenue to operating expenses, permanent improvements, debt retirement, or property tax reduction; school boards that are not part of the majority proposing the tax must use their share only for property tax reduction.
- Permits school boards that use their share of revenue for permanent improvements to issue bonds in anticipation of their share.
- Limits the maximum term of the tax to 25 years.

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### **CONTENT AND OPERATION**

#### **County-wide sales tax for schools**

(R.C. 5739.41 and 5741.31)

The bill permits school boards within a county to jointly propose a county-wide sales and use tax and to share the revenue. The tax may not be proposed without approval by a majority of the school districts that have any territory within

the county. Once approved by a majority of those school districts, the tax must be approved by voters at a county-wide election. Only city, local, and exempted village school districts may propose the tax and share the revenue.

To participate in proposing the tax, a school board must adopt a resolution proposing the tax and certify the resolution to the county board of elections. The resolution must state the tax rate, the term, the first year of the tax, and the purpose for which the school board will use its share of the revenue. Once resolutions are received from a majority of the school districts with territory in the county, the board of elections must make arrangements for the election, but only if all of the resolutions propose the same rate, term, and first year of the tax, and propose that the question appear at the same election. (The bill presupposes that school boards would coordinate these matters before submitting resolutions.) The question may appear at any special or general election, as long as the resolutions are certified at least 75 days before the election.

If voters approve the tax, the tax may begin to be levied on the day specified in the resolutions, but no sooner than the first day of the month falling 60 days or more after the election. (For example, a tax approved at the November 2, 2004, election could be levied no sooner than February 1, 2005.) If voters do not approve the tax, another such tax proposal may not be proposed again for three years (measured from the date of the election).

#### **Rate of tax**

(R.C. 5739.41(B))

The tax rate must be a multiple of  $\frac{1}{4}\%$ . The bill does not limit the rate that may be levied at any one time. More than one tax may be levied in a county at any one time.

#### **Purpose of the tax**

(R.C. 5739.41(B) and (F))

Each school board participating in proposing the tax may use its share of the tax revenue for one or more of the following four purposes:

- Current operating expenses
- Permanent improvements
- Debt reduction or retirement
- Property tax rate reductions

If a school board does not participate in proposing the tax (i.e., it did not adopt and certify a resolution proposing the tax), then it must apply all of its share of the revenue to property tax rate reductions.

After the tax is being levied, a school board may not change the purpose for which it uses the tax unless it obtains the approval of voters in the school district. To obtain voter approval, the board must adopt a resolution and certify it for submission at a special or general election in the school district.

### **Property tax rate reductions**

(R.C. 5739.41(F))

If a school board uses its share of revenue for property tax rate reductions, the revenue must be credited to the school district's general fund, and the rate reduction must be applied to one or more voted taxes levied for current operating expenses. The rate reductions must be uniform across all property; the reduction is to be made in the voted rate, not the "effective" rate (i.e., H.B. 920-reduced rate). The reduction in the property tax rate must be "reasonably calculated" to offset the school board's share of the sales and use tax revenue the board receives for property tax reduction. The reduction must be made each year when the school board certifies its property tax levies to the county auditor, beginning with the first certification occurring after the tax receives voter approval and continuing for the same number of years as the sales and use tax is levied.

### **Distribution on per-pupil basis**

(R.C. 5739.21(E), 5739.41(A), (D), and (E), and 5741.03(C))

Revenue from the county-wide sales and use tax is to be distributed on a per-pupil basis among every school district that has territory in the county, including those school districts that did not adopt a resolution proposing the tax. The per-pupil distribution is based on each school district's "formula ADM" (which is used to compute state base cost and special education funding) but modified to include only those pupils who reside within the county where the tax is levied. (In the bill, this is referred to as a district's "county ADM.") For each year the tax is collected and distributed, a district's county ADM is based on its formula ADM reported to the Department of Education in October of the preceding year, and includes only those pupils who resided in the district on October 1 of that preceding year.

School boards must certify their county ADM to the Department annually, on or before the anniversary of the first day the tax was levied. (For the first year the tax is levied, the certification must be made on or before the first day the tax is

levied.) The Superintendent of Public Instruction may adjust a school district's county ADM as necessary to accurately reflect county ADM, and must notify a school district of any adjustment. If a school board does not certify its county ADM, or certifies it past the deadline, the Superintendent may estimate the district's county ADM, and correct it afterwards as necessary.

Each year, the Superintendent must transmit the county ADMs to the Director of Budget and Management within 30 days after the effective date of the tax (or the anniversary date). The certification is to enable the Director to apportion proceeds among the school districts entitled to a share of the sales and use tax revenue.

Revenue from the sales and use tax would be administered in a manner similar to county sales and use taxes. Every month, the Tax Commissioner would have to certify the amount of tax collected to the Director of Budget and Management. The Director then must transfer that amount to the state's Permissive Tax Distribution Fund for distribution to school districts (net of any tax refunds). The Tax Commissioner must adjust distributions periodically to account for revenue that cannot be distributed monthly.

#### **Sales-tax supported bonds**

(R.C. 133.01(TT), 133.06(D)(8), 133.061 and 5739.41(F))

If a school board resolves to use all or part of its share of sales and use tax revenue for permanent improvements, the school board also may issue securities that pledge the district's share of revenue to the payment of the permanent improvement debt. These sales tax supported securities would be exempted from the school district's voted and unvoted debt limitations.

A school board's authority to issue sales tax supported securities would be similar in most respects to county sales tax supported securities. The maximum amount of bonds that a school board may issue is limited so that the annual debt charges do not exceed the board's share of sales and use tax revenue dedicated to the permanent improvements. Cumulatively, the amount of bonds outstanding at any one time may not exceed the amount that requires annual debt charges in excess of the school board's share of the revenue that the board has pledged to pay from that share. The school board fiscal officer must estimate this maximum cumulative amount based on reasonable projections of the relative formula ADMs of all the school districts in the county and the average sales and use tax revenue in the county over the preceding two years.

A school board may issue bond anticipation notes (anticipating receipt of the definitive bond proceeds) and may issue refunding bonds under terms similar

to those for county sales tax supported bonds. The maturity of bonds depends on the class of permanent improvement to be built, but is limited in any case to the number of years remaining for the tax to be collected. The bill states that the bonds are not to be considered general obligation bonds (which imply a pledge to levy taxes, if necessary, to repay bondholders), and are not indebtedness for which the school board or state is obligated, under the Ohio Constitution, to levy a tax (under Article XII, Section 11, Ohio Constitution).

**Renewal of the tax**

(R.C. 5739.41(G))

Once a school sales tax is levied, it may be renewed at any time while it is still in effect, as long as the election on the renewal tax is held at least 60 days before the existing tax expires. Like the original tax, a renewal tax must be proposed by a majority of school boards having territory in the county, and then must be approved by the voters. The rate of the renewal tax need not be the same as the existing tax. A school board may change the purpose for which it uses its share of the renewal tax revenue.

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	12-18-03	p. 1339

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